

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 10:00 a.m.
Thursday, May 5, 2016
Cottonwood Recreation Center
150 S. 6th Street
Cottonwood, Arizona 86326

PRESENT: (Commission)

(Director's Staff)

Chairman Kurt R. Davis
Commissioner Edward "Pat" Madden
Commissioner James R. Ammons
Commissioner James S. Zieler
Commissioner Eric S. Sparks

Director Larry D. Voyles
Deputy Director Ty E. Gray
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock
Assistant Attorney General John LeSueur

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §17-238, §17-245 §17-314, §17-340, §17-362, §17-363 and/or §17-502 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. Each of the following individuals was legally noticed for this hearing.

Name	Docket #	Count	Conviction
Luigi Zanette	2016-0022	Count A:	Take in excess of possession limit (Dove)
Luciano Turchet	2016-0023	Count A:	Take in excess of possession limit (Dove)
Daniel Gaiotto	2016-0024	Count A:	Take in excess of possession limit (Dove)
			Citation A07023
Dennis Branin	2016-0046	Count C:	Possession of unlawfully taken wildlife (Elk)
Dennis Branin	2016-0047	Count B:	Possess unlawfully taken wildlife (Mule Deer)
Lewis W. Stier	2016-0042	Count A:	Obtain license by fraud
Phillip Lujan	2016-0043	Count A:	Obtain 2015 resident hunting license by fraud
Andrea Lujan	2016-0044	Count A:	Obtain 2015 resident hunting license by fraud
Michael S. Foote	2016-0045	Count A:	Guide without a license

Roll call was taken and the following were present: Dennis Branin, Phillip Lujan, Andrea Lujan, and Michael Foote.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment. The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Ammons moved and Madden seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

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Dennis A. Branin

Docket # 2016-0046

Branin was found guilty by the Payson Regional Justice Court for Count C: Possession of unlawfully taken wildlife (elk); and sentenced: Fined \$250.00 and ordered to pay restitution of \$100.00 to the County Attorney.

Branin was present and addressed the Commission stating that he made a mistake. He apologized and accepted responsibility, further stating that this is not who he is. He is an avid hunter/angler and belongs to several wildlife organizations. The bull had deformed and broken antlers and he went ahead and took it. He had the antlers reconstructed and put on a wood plaque. Mr. Branin requested to keep his fishing license, since this incident did not involve fishing. He has not had any hunting/fishing violations in 66 years.

Commissioner Zieler questioned Mr. Branin about how many points the elk had originally.

Mr. Branin stated three on each side counting the eye guards.

Commissioner Ammons clarified with Mr. Branin that he bought an Oregon Pioneer License in 2010, which requires that a person be a resident for the previous 50 years.

Mr. Branin stated that the Oregon Pioneer License was the big issue and he is guilty.

Chairman Davis discussed with Mr. Branin that at the time of this incident, Mr. Branin was an active voter in Oregon and obtained licenses in both states as a resident. Additionally, Mr. Branin pled guilty to unlawful possession of wildlife.

Case Officer Nemlowill was present via video teleconference and answered questions for the Commission. Officer Nemlowill stated that in discussion with the taxidermist, she stated that she repaired existing antlers and no points were added.

Mr. Branin stated that she must have been referring to his son's antlers, because his antlers were rebuilt.

Commissioner Zieler discussed with Officer Nemlowill that the antlers are still in Oregon and cannot be examined by the Department.

Motion: Madden moved and Sparks seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DENNIS A. BRANIN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DENNIS A. BRANIN TO COLLECT THE AMOUNT OF \$8,000.00 FOR THE LOSS OF ONE (1) TROPHY BULL ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Officer Nemlowill stated she had a photo of the elk prior to it being reconstructed and she could send that to Mr. Elms for viewing by the Commission.

The Commission temporarily delayed their decision to wait for the photo. The photo was provided and the Commission discussed what constitutes a trophy elk, which is six points on at least one side. Mr. Elms added that this elk was a 5x6, but the Commission has reduced the civil assessment in the past for a poor quality elk.

Commissioner Zieler asked for a friendly amendment, that the Commission determine this elk to be a non-trophy elk and the civil assessment to be \$2,500.00.

Commissioners Madden and Sparks accepted the amendment.

Motion: Madden moved and Sparks seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DENNIS A. BRANIN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DENNIS A. BRANIN TO COLLECT THE AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) NON-TROPHY BULL ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Dennis A. Branin

Docket # 2016-0047

Branin was found guilty by the Payson Regional Justice Court for Count B: Possession of unlawfully taken wildlife (deer); and sentenced: Fined \$200.00 and forfeit of mule deer mount.

Branin was present and addressed the Commission stating that he didn't think the mule deer qualified as a trophy. It was a 3x4, but the fourth point was very small.

Case Officer Nemlowill was present and answered questions for the Commission.

Commissioner Zieler confirmed with Officer Nemlowill that a trophy mule deer constitutes four points on either side, including the eye guards, and that this mule deer was a trophy mule deer.

Motion: Ammons moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DENNIS A. BRANIN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DENNIS A. BRANIN TO COLLECT THE AMOUNT OF \$8,000.00 FOR THE LOSS OF ONE (1) TROPHY MULE DEER; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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The cases of Andrea Lujan and Phillip Lujan are related and were addressed by the Commission at the same time.

Phillip C. Lujan

Docket # 2016-0043

Lujan was found guilty by the Yuma Justice Court for Count A: Obtain 2015 resident hunting license by fraud; and sentenced: Fined \$525.00.

Phillip and Andrea Lujan were present and addressed the Commission stating that the incident report is true. They have fully cooperated and will continue to do so, but they are only guilty of not understanding the law as far as residency is concerned. This was an honest mistake and they

take full responsibility for it. He has been buying non-resident licenses for 14 years, until he bought a residence in Arizona.

Case Officer Fischer was present via video teleconference.

Motion: Ammons moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF PHILLIP C. LUJAN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER UNTIL HE COMPLETES THE HUNTER EDUCATION COURSE, AND PROVIDES PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST PHILLIP C. LUJAN TO COLLECT THE AMOUNT OF \$50.00 FOR THE LOSS OF ONE (1) DOVE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Andrea V. Lujan

Docket # 2016-0044

Lujan was found guilty by the Yuma Justice Court for Count A: Obtain 2015 resident hunting license by fraud; and sentenced: Fined \$525.00.

Andrea and Phillip Lujan were present and addressed the Commission together during Phillip Lujan's hearing.

Case Officer Nemlowill was present.

Motion: Sparks moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF ANDREA V. LUJAN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND SHE BE DENIED ANOTHER UNTIL SHE COMPLETES THE HUNTER EDUCATION COURSE, AND PROVIDES PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Michael S. Foote

Docket # 2016-0045

Foote was found guilty by the North Canyon Justice Court for Count A: Guide without a license; and sentenced: Fined \$200.00.

Foote was present and addressed the Commission stating that he has never been a hunter or fisherman since he lived in Oregon. He is more of an ecologist. He has been going out on the Arizona strip all his life and knows the area. He did not ask to be paid, but it was offered to him for providing information through maps and photos.

Chairman Davis confirmed with Mr. Foote that he was not truthful to the officer when he was asked about the exchange of money for guiding services.

Commissioner Zieler confirmed with Mr. Foote that he had never met or been in the field with the client related to this case.

Case Officer Shurtliff was present and confirmed that Mr. Foote had lied to the officers when he stated he had never received any money when he had actually received \$500.00.

Motion: Ammons moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MICHAEL S. FOOTE TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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The cases of Luigi Zanette, Luciano Turchet, and Daniel Gaiotto are related.

Luigi Zanette

Docket # 2016-0022

Zanette was found guilty by the Yuma Justice Court for Count A: Take in excess of possession limit (dove); and sentenced: Fined \$179.40.

Zanette was not present, but was represented by legal counsel, Mr. Michael Hinson with the Law Office of John Serrano. Mr. Hinson addressed the Commission on behalf of Luigi Zanette and the other related cases stating that this incident was a mistake and not done with criminal intent. His clients have been coming in large groups to Yuma for years and have never had an incident like this before.

Chairman Davis confirmed with Mr. Hinson that Mr. Zanette pled guilty to take in excess of the possession limit.

Mr. Hinson provided his legal argument that the Commission's fine or revocation of licenses would constitute double jeopardy.

Mr. Odenkirk provided his legal argument on behalf of the Commission stating that the civil assessment and revocation of licenses is not punishment, but rather that the civil assessment recovers the value for the loss of wildlife to the State of Arizona and license revocations are remedial and removes a person from the field as well as protects other hunters from violators.

Case Officer Myers was present via video teleconference and addressed the Commission. Officer Myers stated that the group misled officers throughout the investigation as stated in the write-up.

Motion: Zieler moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF LUIGI ZANETTE TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST LUIGI ZANETTE TO COLLECT THE SHARED AMOUNT OF \$350.00 FOR THE LOSS OF SEVEN (7) DOVE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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The cases of Luigi Zanette, Luciano Turchet, and Daniel Gaiotto are related.

Luciano Turchet
Docket # 2016-0023

Turchet was found guilty by the Yuma Justice Court for Count A: Take in excess of possession limit (dove); and sentenced: Fined \$179.40.

Turchet was not present, but was represented by legal counsel, Mr. Michael Hinson with the Law Office of John Serrano.

Case Officer Myers was present via video teleconference.

Motion: Zieler moved and Sparks seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF LUCIANO TURCHET TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST LUCIANO TURCHET TO COLLECT THE SHARED AMOUNT OF \$350.00 FOR THE LOSS OF SEVEN (7) DOVE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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The cases of Luigi Zanette, Luciano Turchet, and Daniel Gaiotto are related.

Daniel Gaiotto

Docket # 2016-0024

Gaiotto was found guilty by the Yuma Justice Court for Count A: Take in excess of possession limit (dove); and sentenced: Fined \$179.40.

Gaiotto was not present, but was represented by legal counsel, Mr. Michael Hinson with the Law Office of John Serrano.

Case Officer Myers was present via video teleconference.

Motion: Madden moved and Sparks seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DANIEL GAIOTTO TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DANIEL GAIOTTO TO COLLECT THE SHARED AMOUNT OF \$350.00 FOR THE LOSS OF SEVEN (7) DOVE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Lewis W. Stier

Docket # 2016-0042

Stier was found guilty by the White Tanks Justice Court for Count A: Obtain 2015 hunting license by fraud; and sentenced: Fined \$218.00.

Stier was not present.

Case Officer Raspiller was present via video teleconference.

Motion: Sparks moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF LEWIS W. STIER TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST LEWIS W. STIER TO COLLECT THE AMOUNT OF \$750.00 FOR THE LOSS OF FIFTEEN (15) DOVE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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These hearings concluded at 11:57 a.m.

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